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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/663,978	09/17/2003	Dickory Rudduck	112427.131US1	1951
24395	7590	10/04/2004	EXAMINER	
WILMER CUTLER PICKERING HALE AND DORR LLP THE WILLARD OFFICE BUILDING 1455 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004			OMGBA, ESSAMA	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,978

Applicant(s)

RUDDUCK, DICKORY

Examiner

Essama Omgba

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 25-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the page and line numbers referred to in the preliminary amendment filed February 6, 2004 do not match with the referenced page and line numbers in the specification: for example the preliminary amendment refers to page 2, line 11 for the paragraph beginning with " Accordingly...) but the cited paragraph does begin on line 20 of page 2. Again the preliminary amendment refers to page 2 and the paragraphs beginning on line 18 and ending on line 24, with "The invention also includes...", however those paragraph begin on page 3, line 1. The rest of the preliminary amendments have similar problems which renders the application difficult to consider. Two specifications are present in the instant application: one filed September 17, 2003 and the other filed February 6, 2004. The amendments to the specification must be submitted in reference to the immediate prior version of the specification of record.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying

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clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

Claim Rejections - 35 USC § 112

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "more" in claim 7 is a relative term which renders the claim indefinite. The term "more" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear as to what is meant by "the adjustment means is associated **more** with one fastening means **than** the other".

3. Claims 26, 27 and 30-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claims language. Claims 26 and 27 depend on canceled claim 14 and claims 30-35 depend on canceled claims 18 and 19.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5-7, 9, 28-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Evenson et al. (US Patent 5,439,310).

With regards to claims 1 and 29, Evenson et al. discloses a jiggging device for maintaining a first element 60 in spatial relationship to a second element 36, the device including a first fastening means 30 for connection to the first element and a second fastening means 34 for connection to the second element, the second fastening means including adjustment means 46 for adjusting the spatial relationship between the first and second elements, the first fastening means having a portion 76 adapted for receipt in a portion 54 of the second fastening means, the device also including locking means adapted to assume a position in which the first fastening means is locked to the second fastening means, the locking means in the locked position being located within the portion of the first fastening means received within the portion of the second fastening means and adapted to press the received portion of the first fastening means outwardly against the receiving portion of the second fastening means, see column 3, lines 26-58 and column 4, lines 6-15. Applicant should note that the recited method steps are inherent.

For claim 5, the first and second fastening means, the adjustment means and the locking means of Evenson et al. can be manipulated manually.

For claim 6, see column 5, lines 18-61. Applicant should note that such actuators could be remotely activated.

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For claim 7, the adjustment means 46 is associated with fastening means 34.

For claim 9, the fastening means are connected to their respective element by plates 68 and 42.

For claim 28, bottom of bore 50 constitute a stop limit movement of the locking means.

6. Claims 1, 8, 10 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Minogue (US Patent 4,169,308).

With regards to claim 1, Minogue discloses a jiggling device for maintaining a first element B in spatial relationship to a second element C, the device including a first fastening means 24 for connection to the first element and a second fastening means 40 for connection to the second element, the second fastening means including adjustment means 43 in the form of threads for adjusting the spatial relationship between the first and second elements, the first fastening means having a portion (the one with threads 28) adapted for receipt in a portion (the one with complementary threads 43) of the second fastening means, the device also including locking means (complementary threads on the first and second fastening means) adapted to assume a position in which the first fastening means is locked to the second fastening means, the locking means in the locked position being located within the portion of the first fastening means received within the portion of the second fastening means and adapted to press the received portion of the first fastening means outwardly against the receiving portion of the second fastening means, see column 3, lines 26-58 and column 4, lines 6-15.

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For claims 8 and 10, the complementary threads on the first and second fastening means represent the two adjustment means.

For claim 25, the portions of the first and second fastening means are circular in cross section.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-4, 11 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evenson et al.

With regards to claim 2, Evenson et al. discloses a jiggling device and a method for maintaining a first element in spatial relationship to a second element as shown above except for the first element being a panel for a vehicle and the second element being part of a tubular frame or vice versa. However it would have been obvious to one of ordinary skill in the art at the time the invention was made that the jiggling device of Evenson et al. could be used with a panel of a vehicle and part of a tubular frame.

For claims 3 and 4, the adjustment means 46 of Evenson et al. allows the elements to adjust closer to or further from one another.

For claim 11, Applicant should note that having adjustment means wherein on part slide into another as opposed to being screwed in is an obvious matter of design choice

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wherein no stated problem is solved or unexpected results obtained in using adjustment means that are slidable into one another versus the one that screws into another as long as an effective adjustment is achieved.

For claims 25, Applicant should note that having the portions of the first and second fastening means to be circular in cross section is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in having the portions of the first and second fastening means be circular in cross section versus the ones taught by Evenson et al.

9. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minogue in view of Bricker (US Patent 4,583,432).

Minogue discloses a jigging device as shown above. Although Minogue does not disclose intelligent means for automated adjustment of the first element relative to the second element, the intelligent element being capable of sensing an undesirable gap between the elements and automatically activating the adjustment means so that the gap falls within a preset tolerance, however such intelligent means are known with threaded adjustment means as attested by Bricker, see column 4, lines 64-68.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have provided intelligent means in the jigging device of Minogue, in light of the teachings of Bricker, in order to efficiently adjust the elements.

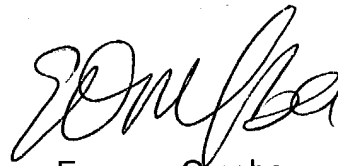
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (703) 305-2915. The examiner can normally be reached on M-F (10-7:30) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgba
Primary Examiner
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